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October 31, 1956

1956

The Honorable Lane Dwinnell
Governor of New Hampshire
Concord, New Hampshire

Dear Governor Dwinnell:

In a recent letter the State Librarian has requested our views on the question whether or not the State Library Commission may by regulation establish the hours when the State Library shall be opened to the public.

Mrs. McKay pointed out the position which the Personnel Commission once held in this regard, and she has alluded to an opinion rendered by me to you under date of April 17, 1956, in response to a request from you dated April 11, 1956. In my opinion I stated generally that unless the law should provide otherwise, the determination when a state agency should be opened and closed to public access was one which lay with the Governor and Council. Your inquiry did not refer to any specific agency.

The question of the State Library is thus currently before us for opinion; and while our views with respect to said agency do not conflict with my opinion to which reference has been made, I feel that you will wish to know of the application of the law to the Library.

In her letter Mrs. McKay has drawn our attention to RSA 201. Section 1 reads as follows:

"Commission Established. There is hereby created a state library commission which shall have general control and supervision of the state library."

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The language of section 15 is set forth:

"Rules and Regulations. The commissioners are hereby authorized to make all necessary rules and regulations for the proper control and administration of the state library department."

These provisions, in our view, confer upon the State Library Commission the authority to fix the hours of opening and closing the State Library to public access. They may exercise such authority at discretion. The question is neither raised nor answered here whether the exercise of such discretion, if constituting an abuse, might be reviewed by the Governor and Council.

The case of the State Library is, then, one for which the Legislature has specifically provided by delegation, the possibility of which was contemplated in my opinion of April 17th.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WWW/aml

cc: Mrs. Mildred P. McKay
State Librarian